

MINUTES  
REGULAR MEETING OF BOARD OF LAND COMMISSIONERS  
January 17, 2006, at 9:00 a.m.  
Room 303 State Capitol Building  
Helena, Montana

PRESENT: Governor Brian Schweitzer, Attorney General Mike McGrath, Secretary of State Brad Johnson

VIA PHONE: Superintendent of Public Instruction Linda McCulloch and State Auditor John Morrison

Mr. McGrath moved for approval of the minutes from the December 19, 2005, meeting of the Board of Land Commissioners. Seconded by Mr. Johnson. Motion carried unanimously.

**BUSINESS CONSIDERED:**

1205-6      FINAL APPROVAL OF DNRC/MILLER LAND EXCHANGE

Ms. Sexton said this proposed exchange is back from last month. There has been an additional development with a complementary proposal with Fish, Wildlife and Parks for the purchase of the Wetzsteon property.

Jeff Hagener, Director Fish, Wildlife and Parks, said this is a proposal we have looked at for a while. It is just coming to fruition now because of the issues with the Miller exchange and it looks like it will have some value to help that along. The Wetzsteon property has investment value to be blocking up within the DNRC lands, the east side of the French Basin area. We are looking at purchasing that with some partnerships, but purchasing it with the intent in the long term that it will be in DNRC hands. Eventually we could trade that to DNRC because it fits with their land management for the whole area, it fits in with their conservation practices and we think does a good job within that valley. There are trust lands within our Calf Creek Wildlife Management Area as well as in our Three Mile Game Range area in the Bitterroot and once the appraisals are finalized with the properties we have, as well as the Wetzsteon properties, we'd like to exchange the Wetzsteon property to DNRC in exchange for properties DNRC has in the middle of our wildlife management areas. That would fit very well with our intent of trying to use Habitat Montana monies specifically for blocking up other areas we have that are significant management areas. We are required to go through our commission first before we can actually go through with an acquisition like this. This proposal is on our commission agenda for tomorrow and so we are hoping they will approve it. It is coming to the Board of Land Commissioners ahead of time because of the need with the Miller land exchange and how it plays into that.

Ms. Sexton said with this proposal the Rocky Mountain Elk Foundation has been involved as an intermediary. The property would then go to Fish, Wildlife and Parks and then we would do an exchange between DNRC and FWP. It is a strong win-win situation given the fact we have these isolated parcels within the game range that are better managed by FWP, and we would gain the Wetzsteon property as part of our Sula State Forest.

Governor Schweitzer said last month when we addressed this issue there were several concerns. One of the concerns was price. Are we getting a good deal here? The second was access. And the third is are we trading one county for another county? In other words, in the Lincoln area they were going to gain a

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great deal of public land and there would be a diminished amount of public land in the Bitterroot. Could we address what is going on in terms of those three concerns? With this proposition do we get more land or less land in the Bitterroot and what is on the horizon to add to the Bitterroot? I think those are legitimate concerns of playing one community off of another. It is a legitimate concern that has been raised. Land banking is an evolving process.

Ms. Sexton said for value, and I do have another fact sheet, but to leave the Wetzsteon proposal as it is would of course gain some property within that area and it would enhance access. We do have the CB exchange which was preliminarily approved last month and would add two accessible sections in the Bitterroot. One of which is just north of the Sula State Forest the other is a bit farther away from the Sula State Forest. With that exchange, irrespective of the Wetzsteon proposal, there would be a gain in the Bitterroot. We do have a third proposal out there we are looking at but that has not come for preliminary approval before the Board. If there are no more questions about the Wetzsteon proposal I would give you the information from that proposal. My understanding is the auction is for \$2,500 per acre or appraised value and that is what the Rocky Mountain Elk Foundation has arranged with the Wetzsteons for value. This the fact sheet from last month regarding the Miller/DNRC land exchange. We have changed it somewhat since last month. Again, we have in the Sula area the 800 acres being exchanged for 1,450 acres in the Lincoln area. There were a number of appraisals done, we've gone through this before. The second appraisal, which was done in October 2004, assumes the existing access and there is an appreciated value because since that time land has appreciated in the Bitterroot as it does most everywhere. We have the Stuckey hypothetical value which is was given in October 2004, of \$3,700 per acre. Again, this is an access issue with assuming access through the Shining Mountain Ranch. Then we have the Spear appraisal which was done in August 2005, which assumes all legal access to all parcels through the Shining Mountain Ranch, which we do not have. And actually the Conservation Easement did not allow for even Mr. Miller or whoever owns the property in the future. The Sula lands negotiated value, the value that was given the original terms of the exchange, the range was \$1,551 to \$4,231. Now we look at the Lincoln exchange part of it. We have the Neibergs appraisal done in October 2004, at \$1,360 per acre. The appreciation we added to that of 10% in that area since October 2004, and we do have the donation. Last month we had a donation of \$160,000. Mr. Miller recently contacted us and added an additional \$160,000 in donation to the exchange contingent upon approval today without conditions. So that brings the total value of the Lincoln at \$2.5 million. We have the comparison of the two values of the land, at the \$2.1 million for the Sula property which is ours and for the Lincoln land and the donation. There we have an overview. The estimated future net revenues from Sula is at \$1.4 million. The Lincoln estimated net revenue is at \$3.2 million. The Wetzsteon property comparison and the asking price was \$2,100 per acre and as I understand it now the realtor as of January 1<sup>st</sup> upped the price to \$2,500 per acre. The existing easement on the Miller property, and there is an easement option, will be added to the 800 acres if this exchange is consummated. Additionally, I would note at the very bottom of the page, there is additional access. This was a concern of the Land Board members last time, that there was not enough access on the eastern part of the property. Where the Wetzsteon property is there is a small two-track that goes across the 800 acres in the Sula. Mr. Miller has granted access across that property as well to hook together the two pieces of state land. So additional access has been gained. The two major points would be that there has been additional access gained in this exchange as well as another \$160,000 has been added to the value of this exchange. It was very late Friday afternoon that we were made aware of the additional offer contingent upon approval today without conditions.

Guy Youngblood, Pastor Lincoln Community United Methodist Church, field representative for the Salvation Army in the Lincoln area, and chair of the Lincoln Community Council, said it is in these three positions I wish to speak to you this morning. My neighbors will be speaking to you addressing technical issues and other things. But I want to place a face on this land transaction and bring it down to human

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terms. Lincoln is a community that has traditionally been a mining community, a community involved in the timber products. Mining is dead, timber is on the way out and we have bought into the state concept that recreation is a vital industry in the State of Montana. We must continue to have access to these lands in the Lincoln area or we will suffer dire financial impacts upon our people. My concern as a pastor, as the chair of the community council, is that the Board's decision be such that the lands in the Lincoln area be available to all types of recreation, both in the winter and in the summer.

Rick Laible, Senator from District 44, said it is interesting what has taken place in the last 30 days, we have picked up another \$160,000 plus more land. I am grateful for that. I need to say something in regard to this, I am a proponent of acquiring the Lincoln land. I think it is a good project and in the best interest of the state. I think the department and especially Director Mary Sexton has done an admirable job of putting this together and continuing what she didn't start. That is where the problem lies with this project. If we would have started from the very beginning and she had this to do over the outcome would be much different than what it has been so far. If I could reiterate, the department has done an excellent job. Mack Long from FWP and Tony Liane have been very supportive of the Lincoln trade. That is something I applaud them for and I think that because they also sit on the Board of Directors for the Blackfoot Challenge its appropriate they support this trade for Lincoln land. The interesting thing I find is the appraisal that was originally done, the Stuckey appraisal, I am wondering where in the order of things that this took place. Did it take place before we actually started scoping the project? Or was the appraisal done after we started the scoping before the department started? I am concerned that this deal was in the works a long time before the department got involved in it. We've added 368 acres to this and as I read in the newspaper, we are acquiring the land with Habitat Montana funding. I sent the Board a letter regarding this same funding stream. We could use that land to apply to the Lincoln property altogether and just keep the Sula lands as public lands.

If we looked at the trade and the seven criteria the Board is supposed to use for making these trades, I don't think it meets the criteria. It looks like we are weak on those seven requirements. I think from the very beginning this deal was put together actually before it came to the department. This was a deal saying we need to get the Lincoln lands and I actually think that was the whole goal. That is the ends. The means is giving up the land in Sula. That is the whole process. Do the ends justify the means is the question I have. My concern is, is this trade the way trades have always been done in Montana? Is this a Lincoln anomaly? Is this what we are looking at when we do land trades? I still don't think we are getting the proper value. The appraisal that was done for this land by an appraiser hired by the department, under the guidelines supplied by the department, we were short \$1.17 million. We got \$160,000 more than we had a month ago. How much more actually represents the true value of this land? I appreciate the fact that we are going to acquire the Wetzsteon property. That is a different issue. If we are talking about what the value of the land is in Sula and that the state is supposed to get the true value of that land, shouldn't we? If we buy the Wetzsteon property because it makes good sense it is no different than if we bought North Dakota. It is not relevant to what we're trying to do here. We are trying to get the best value for that land. I still think we are short of that. If the Board decides to go ahead with this land trade with the additional money I would suggest we press to get the fair value of that land which is what the appraisal came in at. But in addition to that, I would still like to see this land trade be conditional on the fact that we get the Wetzsteon property. I understand we have a commitment now that we are going to purchase that land but we don't own it yet and until we do, what happens if the Board approves the trade but for whatever reason we don't acquire that land? Because now we have three components, the Rocky Mountain Elk Foundation, Fish, Wildlife and Parks and DNRC. If we just used the Habitat Montana money we take out the Rocky Mountain Elk Foundation. I am not quite sure how that works. We also have an easement that has come on in the last month through Parcel 4 in order to provide access through there. As I read it, it is a walking trail. How does a walking trail help DNRC in

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the management of this land? I think we should at least have a road through there with a locked gate on both sides so the DNRC or their designated agents have access for fire suppression and for management of that land. I would also like to see FWP oversee the fencing on the Miller land if this trade goes through to make sure these fences are wildlife-friendly. Lastly, if you look back at this we've had some problems in this area because the previous owner tried to raise domestic sheep on this land. It actually went to court where we were going to grant permission for the previous owner to raise wild sheep which jeopardizes our wild sheep population there. We went to court and we prevailed. I would like to add to that no domestic goats as well because they are a greater threat to our wild sheep. I would ask the Board to get the true value of what that land is worth and let's keep public lands for public use.

Representative Jim Shockley, District 45, said this land trade should not go through. There are notice problems. By the way, George Korn who is our county attorney is aware of noticing in his business and assures me that the Attorney General's latest opinion on notice assures him the original notice for the original trade in the Bitterroot was inadequate. Looking at the current situation, we are not tying the Wetzsteon property into the trade with Mr. Miller. It has never been noticed. This wasn't even noticed here. This is clearly outside the law simply on the notice issue. If you don't get the Wetzsteon property you are violating the rule. The statute says consolidation should be a goal, the rule says you can't deconsolidate. Without the Wetzsteon property there is deconsolidation. We have no guarantee this is going to go through whether it is noticed or not. The Wetzsteon's don't have a definite price, they have \$2,100 or \$2,500 plus appraisal. I tell you what, if I am hiring an appraiser and I am buying I get one figure. If he knows I am selling I get another figure. This is real estate. You don't really have a definite price. Then the money to purchase from the Rocky Mountain Elk Foundation has to be approved by the Fish and Game Commission. That hasn't been done and it hasn't been noticed. So we don't have a firm figure with Wetzsteon and Rocky Mountain, we don't have approval from the Fish and Game Commission to buy from Rocky Mountain. This isn't a done deal.

Also, it is my understanding we are severing the estates. We are going to keep the mineral estate in French Basin. That's contrary to the rules. The appraisal done by the department was grossly inadequate. Not even close. Along the left side is a road called the Two Percent Road and it goes over two percent and drops into Rye Creek. Two Percent Road connects to the East Fork Road. Whether or not there is access by the state to the state land across the old Boat Ranch is an issue. In my conversation with Tony Liane I asked what about the Two Percent Road? That gives us the same access Mr. Miller has to these parcels. And he said he hadn't investigated that. I also said what about the old wagon road or stagecoach road, the RS2477, that goes up French Basin from Sula Basin and drops into Rye Creek? I don't know this exists. I got it from my relatives and other old men who didn't know where it went and it was believed to have gone behind this roadbed and would give us the same access as Mr. Miller. On the east side there is Pasture Gulch Road. That road comes up and within 200 feet of the road on the east side. The department said that right now the only way we can access this roadbed here behind the east side is going through Mr. Miller's land with permission. That is true. But with a caterpillar you could put another 200-300 feet between the Pasture Gulch Road and these roads would tie us in. That gives us the same access Mr. Miller has. To appraise this land you have to know what your access is. And you don't know if the Two Percent Road reaches these four roads so you can't appraise it. You don't know where the stagecoach road goes. If you don't get the Wetzsteon property, and that is not for sure, then it is contrary to the rules of the department. The statutes say that you cannot trade for less than the value of the property you are trading for. As I recall, the original appraisal is probably untimely, it was before the period when the appraisal should be made and was made by Mr. Miller who hired and paid the appraiser. Mr. Schultz told me Mr. Miller was the only person allowed that privilege. But it was in error. Now the department has done one for \$4,300. The statute says you have to get equal or greater value. The department says the only person with good access is Mr. Miller. Well, he is the one that is buying it. We

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don't have as good of access as Mr. Miller because we don't know the situation on the Two Percent Road and we don't know where the stagecoach road went which may have given us the same access as this. The Wetzsteon land has been represented as having access. There is no easement by anyone to Mr. Wetzsteon's property. Mr. Miller has given Mr. Wetzsteon, as long as he owns the property, permission to cross the Miller Ranch. There is no easement from the Miller Ranch across the state land to Mr. Wetzsteon's property. On the north, it is surrounded by state or federal land, so there is no easement for anybody to use this property. It isn't even close in value to our property where we have good access. The statutes require that any questions raised at this hearing be answered in writing by the Board. I raised several but it is unfair for you to pour over the tape to try to find them. With permission from the Board, I'll write down some questions so the Board can answer them pursuant to the statute.

Roger Bergmeier, MonTRUST, said it really is not the responsibility of the trust, although it is nice, to have the trust for recreation economics in the Lincoln area. We do not know what the future of those lands that will be exchanged would be. Right now there is access to those lands. We don't know what is going to happen to those lands in the future, those 1,600 acres. There could be access from the Elk Foundation or the Nature Conservancy or whoever buys the land. To assume that because the state doesn't get it that there will be no access is not a good assumption. The Wetzsteon trade has come up rather late. As Senator Shockley pointed out, there are no guarantees there either. But it is still something outside of the realm this exchange. The Sula lands have access now and additional access could be developed. Another problem we have is this trade further splits the lands in the Sula State Forest. Right now they are pretty well blocked up and it doesn't make sense to remove blocked up lands from the state land parcel. There seems to be a need for some kind of policy or direction when you are going to block up lands in one area and at the same time unblock lands like in the Sula State Forest. It is also ironic that this Board is going to be looking at three land parcels to set minimum bids for the land bank. In my experience in forestry and dealing with timber sales we always sold to the minimum bidder. Quite often when we sold the timber sale the minimum bid might be \$200 and the actual bid might be \$600. So we really don't know, even though we have all these appraisals, what the value of that land is. Again, I want to reiterate that the Lincoln lands are in the grizzly bear recovery area and there are management problems when you are dealing with threatened and endangered species. It also deals with bull trout, we have problems possibly with Canadian Lynx and the red trout. It is amazing that we would have the trust trade lands that don't have any of these problems for 1,600 acres of lands where there is no guarantee how we are going to be able to manage those lands in the future. It puts a monkey wrench into the values established and the future income of those lands.

Hank Goetz, Blackfoot Challenge, said we support the exchange as proposed. I thank the Board and the directors of FWP and DNRC for trying to make this work for both valleys, the Blackfoot and the Bitterroot.

Jim Paris, V.P. Montana Snowmobile Association in Lincoln, said I have two items I am handing out to you. The first one is a map which shows the Lincoln area snowmobile trails. I marked areas for Parcels 1 and 3 of the proposed exchange in the Lincoln area. As you can see these two parcels sit directly upon an important junction of the Ponderosa Snow Warriors trail system. To protect this connection the Montana Snowmobile Association, the Ponderosa Snow Warriors and the Lincoln community would much prefer this land be in the control of the DNRC rather than any private party or parties. As the gentlemen pointed out there is the possibility for covenants guaranteeing access on this property, the problem being as years go by property changes hands and the covenants may come into question and that in turn puts us into the legal realm to decide whether or not covenants apply. This can be expensive and also unfortunately legal action does tend to cause enemies and we would just as soon avoid that. Secondly, to protect this and all parts of the trail system over the past two years the Ponderosa Snow Warriors, the Helena Snow Blowers,

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the Montana Snowmobile Association, the Montana Wilderness Association, and several other interested parties such as the Montana FWP, US Forest Service, other winter recreationists such as cross country skiers and mushers entered into a collaborative effort to establish a plan for winter recreation use which would meet the needs of all concerned. These discussions resulted in the second handout, entitled the Blackfoot and Continental Divide Helena National Forest, Rocky Mountain Front Lewis and Clark National Forest Winter Recreation Agreement, or most commonly, the Lincoln Agreement. This Agreement was signed on May 9, 2005, and it does enjoy widespread support from all of the signers. The Lincoln District of the Helena National Forest is now set to begin formal winter travel planning and it is hoped the Lincoln Agreement will become part of that plan. In addition to support by the signers, the Lincoln Agreement has received the endorsement of the Governor. In a meeting with him and Mr. Harper, John Gatchell of the Montana Wilderness Association, and myself the Governor generously offered a written statement of his support of this Agreement and the type of agreement it is and he also offered financial assistance with its implementation. Additionally, the Tri-County Resource Advisory Council, made up of Deer Lodge, Granite, and Powell Counties, has allocated \$7,000 of its funds to aid with the NEPA study necessary to implement the Lincoln Agreement and would deal with the various wildlife aspects. All of this support is focused on a multi-trail system which is generally known as the Ponderosa Snow Warriors Trail System. As stated, the parcels in the Miller/DNRC land exchange in the Lincoln area are vital to this trail system and thus, I would urge your support of the exchange.

Tom Powers, North American Wild Sheep Association and the Ravalli County Fish and Wildlife Association, said from the standpoint of the NAWSA the property in Sula is one that has been an issue over the years over ownership changes. Some time ago when this land was owned by Stan Boon, Stan posted the state land adjoining the ranch. That instituted a lawsuit which was handled through the Ravalli County Fish and Wildlife Association. Then the property was purchased by the Maddens. They wanted to remove their cattle grazing allotments and in so doing wanted to put domestic sheep on the property. The Ravalli County Fish and Wildlife Association once again spearheaded a lawsuit to stop the introduction of domestic sheep because of the valuable wild sheep herd that is there. To give an example of how valuable our wild sheep are, when the sheep tag sells for as high as \$300,000 at the conferences in Reno you know how valuable they are. We prevailed in that lawsuit. Now its our position and we are concerned, again, with the domestic sheep herd and domestic sheep issue and also domestic goats on that property. We want wildlife free and friendly fencing if this project goes through. From the standpoint of the Ravalli County Fish and Wildlife Association, we had a meeting yesterday and decided as a board that if this land trade goes through the way it is, even with the Wetzsteon property and easements, we are ready and willing to go to court once again simply because the land values are not equal.

Ray Smith, Ponderosa Snow Warriors, said everyone who is acquainted with Lincoln realizes that recreational travel is a must for the local businesses to exist. Every year the local snowmobile club maintains and grooms, hundreds of miles of snowmobile trails for the enjoyment of the people that come in. In the summer the group does the same, we trim trails and gets them ready for hikers, bikers, campers, and anyone who wants to enjoy the outdoors. Another thing the club does is spray noxious weeds, it has its own truck equipment, an ATV, and we know how critical this is. My fear is if this land swap does not go through, possibly a private individual could get hold of some of the ground that would block or hold up an artery that would supply many of these people who come to recreate in Lincoln .

Larry Copenhaver, Conservation Director, Montana Wildlife Federation, said it has been an interesting discussion. I am happy to see an open process. Most of my members haven't been aware of what's going on here until recent months. I'd like to take advantage of this open opportunity to discuss this. On the surface we can see why you would like to come to an end in this process because what do we gain by it? We gain a piece of property within the Blackfoot Challenge area near Lincoln with very high wildlife

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values, the grizzly bear recovery area, plus bull trout and cutthroat trout. All in all, it looks like a positive situation to acquire this property and all things should be done to make sure that happens. And then you start looking at what price will be paid for this. In the agenda item request where it talks about hunter and public access it says "concerns were raised about the loss of hunter access to state land in Ravalli County. Whereas 800 acres of publicly accessible state land would cease to be accessible to the public...". Publicly accessible state land would cease to be accessible to the public and that wonderful purchase through a generous benefactor starts getting a bruise on it. Anytime you take hunters out of the picture in a public access situation a red flag goes up for the hunter. Looking at the situation this morning I'm hearing proposals coming forward to help mitigate and help resolve this issue and I see many of them could be possible. I don't think we are at that point. I know the Board wants to come to a final approval on this land exchange but I think it may be a bit too soon. We urge you to take just one more month to resolve some of these issues.

Bruce Bugbee, representative of the Miller Ranch, said I think that there have been a number of issues raised and in my non-legal jargon I would call them straw men. Issues that have been invented outside the facts, loosely tied to the fact, out of genuine concern but not well researched. It is astonishing to me to see how those new "facts" then become the basis for legal challenge. That is an amazing transition. Senator Laible commented on how important it is to separate the Wetzsteon acquisition from this trade, I couldn't agree more. They are two different processes, two different lead agencies, different set of rules, and that process is just beginning. I wish them well. Mr. Miller has been very responsive to mitigate concerns raised by the Board and the public in the past. I am surprised to hear concern about goats. In fact, we first raised the issue of sheep grazing, domestic sheep grazing, on the Sula Basin several years ago to the Ravalli Fish and Wildlife Association and said isn't this a concern we'd like to work with you about it. We have not heard one word about goats until today. I didn't know goats carried sheep disease, but maybe they do. The appraisal concern: we have a very tangled web there. We have a professional practice of appraisal that recognizes national standards, the state subscribes to those standards, the department subscribes to those, the rules you have for your department subscribe to those. We have followed those rules. All of the excitement about Mr. Miller paying for an appraisal, that is required by department rules. And now we are being accused of following department rules. The department rules require that seven criteria be met or exceeded. We knew that going in, we had it spelled out to us several times by your staff. We worked through those one by one. We produced a proposal that we believe meets or exceeds every one of those in abundance.

When we move to a variety of hypothetical concerns regarding access, regarding possible RS2477, regarding the goats, when we started inventing standards beyond that it's a slippery slope. That's where we've wound up. We have a hypothetical appraised value that means it is not based on fact, it's based on what has been invented for your purposes. We accept that. We also accept that your rules say that is being done in order to create a negotiated range. Which you have and which you have now met and we have exceeded as a form of mitigation. This public notice, as far as I know the department followed all the public notice procedures. It begins to break down that the package is reinvented and hitched to the Wetzsteon property. The access that Senator Laible spoke about on the east side, John Miller has actually granted administrative access to the department which the department does not now have. It has been granted in four segments. Specifically to support the department's administrative use, logging, management of the forest, and management of the state land that is there. The elk hunting we've heard about as such an important issue, well you have to have elk in order to hunt them. In order to have elk in Ravalli County you have to have winter range. A good part of the Sula Basin is winter range elk and the only protection on private land that currently exists in the Sula Basin is on John Miller's ranch, voluntarily granted and voluntarily extended to these 800 acres. If they are traded with the state that will protect winter range. None of the other private land is protected in that manner. In fact, a number of the

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landowners from that area that have come before you complaining about access have not protected their own property from subdivision development. I find it odd to be on the opposite side of folks I have worked with for years on similar issues. The walking trail that Mr. Miller has offered for mitigation is for hunter access, it connects the north and south state lands around the Wetzsteon property as it currently exists. No matter what happens to the Wetzsteon property that access is offered permanently. The fencing issue is another one we raised with the Ravalli Fish and Wildlife Association. Mr. Miller has agreed to FWP participating in that fencing. That there is some sort of cloud there to circumvent the process, to invent special conditions that preceded the public scoping, I think there are a lot of people here involved in the process that take offense to that. I do personally. It is very important to me that I respect the public process. I have a great deal of respect for this body and this process. Part of that process is that we needed to get to the point where Mr. Miller actually had to buy the land to offer it to trade. We did that, carefully screening to make sure what we got was in fact what would work. We've gone beyond that considerably, at your statute request, at your own request, and we have now a moving target. We think we have fundamentally a sound proposal. We think it benefits the school trust substantially more than the current situation. We believe it benefits elk habitat, and therefore, elk hunting now and in the future in Ravalli County. It has generated the kind of support you now see for the Wetzsteon property acquisition. I hope you are able to see your way through this miasma and find the ability to approve it. It has recently been made a better transaction that benefits the school children of Montana, benefits the taxpayers, it puts more money on the tax rolls in Ravalli County, it puts more money in the long term school trust.

Ms. Sexton said the presentation on the Wetzsteon property was to be strictly informational. With the additional donation of now \$320,000 that is to purchase land, a half section, that abuts the property in the Lincoln area. So the total acreage with that addition will be 1,778 acres.

Mr. McGrath said I have comments. I will move approval of this exchange for purposes of moving this along.

Mr. McGrath moved approval of the DNRC/Miller land exchange. Seconded by Governor Schweitzer.

Mr. McGrath said as Attorney General it is incumbent upon me to address the notice issues. We need to keep in mind there was an Environmental Assessment on this exchange. This has been going on for some period of time, there is a great deal of information out there. The public has been involved in this process extensively. There are NOT legal notice problems. Let me address Wetzsteon. The Wetzsteon exchange is new and as numerous people have commented, it is independent of this process. It has also been noticed. It is noticed for preliminary approval by the Fish and Game Commission tomorrow. While it is an independent issue of this exchange it is important to me. I am the one who contacted the Elk Foundation to see if they would be interested in working with us and FWP in an acquisition because I think, again while it is independent, it is important in terms of hunting, terms of access, and in terms of management of state lands that we put that piece into the public domain. We do not, as we sit here, have a written option. The Rocky Mountain Elk Foundation has presented an option to the landowners, it has come about fairly quickly. There are five landowners involved. A couple of them are elderly, they've had a couple of revisions they want to make. The lawyers have this and they don't have notarized signatures from all five of the Wetzsteon family. It is my understanding that as late as this morning in talking to the land manager that they still reaffirm they want to sell this property to the Rocky Mountain Elk Foundation and the Foundation is certainly interested in making the exchange with FWP. I am personally very comfortable the Wetzsteon exchange is going to occur. It is not part of it but for me it is an important issue in terms of my vote and how I look at this issue. I want to comment on the value issues, particularly raised by Mr. Bergmeier. I always value his testimony and comments. I think it is important to look at



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the information that was provided on the fact sheet by Director Sexton in terms of the estimated future values to the trust. That is a substantial difference in terms of the value to the trust for the Lincoln properties and we've now added more properties since this was put together. We are talking about long term value of \$3.2 million as opposed to the Sula value to the trust of \$1.4 million. I am very, very comfortable with the fact that the trust is going to obtain a long term value as a trustee in terms of how I value it. There are a lot of other issues that could be commented on. The negotiated value, we always get into these appraisal things and I think the Secretary of State has very good ideas on how we might address appraisal issues in the future, but this is what we have. The negotiated value amount is \$2,700 per acre for the Sula and the Wetzsteon property option value is at \$2,500 per acre. Both of those properties in many respects are comparable and I think there are some serious questions about access on both of them. In fact, we don't have public access to through the Miller Ranch for the other property.

Mr. Johnson said Senator Shockley indicated there is a group in Ravalli County that had been told we would postpone action on this item today. I guess if, in fact, that is the case and we now suddenly spring action on them I am not comfortable with that. I don't know who communicated that to that group and on what basis but I do think we have a certain responsibility to be consistent with the information we communicate to the folks that obviously have a vested interest in the process.

Mr. McGrath said the public communication from the last Board meeting and what has been noticed and published is that we would be taking action today.

Governor Schweitzer said the Wetzsteon property, is that at \$2,500 for appraisal if it is less than or could it go above \$2,500 if the appraisal comes in above \$2,500. What is that deal? I heard some of the testimony suggest that the Lincoln property could be just purchased by the state or some other trade, leave Sula out of this. But it is Mr. Miller that owns the property in Lincoln. Is Mr. Miller interested in a separate deal on the Lincoln property as opposed to the Sula property or is he linking these properties?

Mr. Bugbee said Mr. Miller purchased the property for the sole purpose of doing this trade. He is not interested in developing the property. In the agreement with the Nature Conservancy the purchase agreement requires him to make the property available back to the Nature Conservancy in the event that this trade does not go through. It goes back to the Conservancy for what he paid for it, not any new appraised value or not an increase based on market factors. So, it would be a question for the Nature Conservancy. I can also say from experience that that would mean a new proposal to the FWP Commission, it would mean a separate valuation.

Governor Schweitzer said this business about goats, sheep, Mr. Miller would be amenable to including that in the deal where no domestic goats-no domestic sheep on the property we're talking about here?

Mr. Bugbee said we've specifically prepared a restricted covenant to be held by the Ravalli Fish and Wildlife Association which they said they would accept, that restricts the grazing of domestic sheep not only on the 800 acres but on the rest of the land currently covered by the Conservation Easement. And I assume goats would be in the same category but this is the first time I've heard of it and I am assuming it is not a problem but I haven't asked Mr. Miller that question.

Governor Schweitzer said the walking access, and while I appreciate you've sweetened the pot with the walking access, there was the suggestion about the possibility about having a locked gate which would remain walking access to the public but if DNRC needed to access for fire treatment or other management that that could also be available to the State of Montana. Is that possible?

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Mr. Bugbee said there is access that is offered as part of this transaction to DNRC for administrative use and logging purposes. And I would assume that would include emergency access for firefighting. What is not offered is public access.

Governor Schweitzer said that is the one we are talking about, road access to DNRC walking access to hunters.

Tony Liane, DNRC SouthWestern Land Office Manager, said to the public along the property line.

Governor Schweitzer said did we find anything out about the transaction? Is it possible as Senator Shockley suggested that potentially these appraisals can go up and down based on the utility of the appraisal? Is \$2,500 the top end or could it be higher?

Mr. McGrath said it is possible it could be higher. The problem with answering your question is we don't have a written option yet. The proposal is an appraisal set forth that establishes the fair market value of the property at or above \$2,500 per acre. That is what they want for the property. Again, it is not signed, it is not in writing. If this exchange goes forth we've got a comparable piece that is now valued at \$2,725. So that's where they are in terms of the negotiation at this point.

Mr. Johnson said when this first came before us it appeared to be completely non-controversial and one of those routine items. I am increasingly concerned, as is Auditor Morrison in his comments last month, in having now created a situation where we are going to force winners and losers among our fellow Montanans in this situation. If in fact we can find a way to acquire the Lincoln lands without having to dispose of the Sula lands I think that would be the best of both worlds for us. I see we are going to look at an agenda item under land banking where we will probably assign a minimum bid of an amount about equal to the appraised value of the Lincoln lands. And I'd like to see us make a good faith effort to work with the Nature Conservancy and with the department and perhaps FWP and see if we can't come up with a way to lock those lands up for acquisition and not dispose of the Sula lands.

Governor Schweitzer said Senator Laible if I may ask you some questions because you represent the folks of this area. I am sensitive to having net gains and net losses in areas. It does seem to me if the Wetzsteon property comes to fruition that, in addition to the two sections we gave last month that are very close, in fact, one is an adjacent piece of property of 387 acres and one is 3.5 miles away, where we are gaining a couple of sections your constituents will actually be gaining net acres in this trade. Does that affect how you view what's going on here?

Senator Laible said of course it does. I think we are getting much closer to the solution. But back to your original comment, this is an unusual transaction because it is hard for anybody to say I don't want to acquire the Lincoln lands. That seems to make good sense. But what we set here is a precedent. What would happen if the roles were reversed. We have people here from Lincoln that believe this is a good trade. What would happen if it was reversed? If we were selling their public land in Lincoln into a private ranch holding and we were buying more public land in Sula. We'd have people from Ravalli County saying we think this is a good trade. To answer your question, this is closer but I still don't believe we are getting the fair market value for what this land is worth. I think that we have provided enough information where there is some doubt in people's minds whether or not this piece has access or not. I think we've proven it has access with the amount of roads and historical information as far as coming over from Rye Creek. We have postponed for one month by the good foresight from the Board and I still don't think we are getting the numbers. Of course if the Board decides to go through with it I would still like to have it be conditional of the acquisition of the Wetzsteon property. Because if we don't

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then we do the trade and six months down the road the Wetzsteon property falls out and we don't get it done.

Governor Schweitzer said in conversations with Director Sexton I've been looking at those two sections we added plus the Wetzsteon property and then I ask the next question, we have something else we're working on. Is there additional land that is likely to be nominated and that we have an opportunity to acquire in the area and the answer was affirmative. There is more on the way. So we've already increased the numbers of acres of public land that is available and through the process with the Wetzsteon property we would actually increase access as well.

Senator Laible said I appreciate those comments. I know we did a trade with the CB Ranch and we gained net land. As you remember in the testimony in regards to the Sula land they talk about a road that is called the Two Percent Road and that is because the grade is 2% and it is land that is accessible. I asked this question about the CB Ranch and I understand the trade there, even though we ended up with more property, a good portion of that land we acquired is vertical. So of like value land, I don't think that is true. I could be wrong I've not seen the land but that's what I've been told.

Governor Schweitzer said Senator Shockley, the wagon road, based on your expertise in Montana law, what are the chances we would be able to prevail in some way that the wagon road which we can't identify on a map anymore could be perfected to legal access?

Senator Shockley said I don't have a lot of expertise in the RS2477 area. I looked into it about ten years ago. One of my cousins was upset because somebody had blocked a road we all used. But the road, as Tony Liane said, has opened a can of worms, that 2477 road goes right through Mr. Miller's Ranch. But that doesn't mean the department can look the other way. When my granddad was a ranger in Sula my grandmother followed the stagecoach to Darby and I'd always assumed it went down river. My cousin said no the road went through French Basin. I heard this many years ago. The Wetzsteon family is probably the oldest family in Sula Basin. The only one I still know is Gary. He is a retired forest ranger and he is familiar with the concept. He said the road went right by the north of Mr. Miller's, not his lodge, but the old Shining Mountain Ranch. My point is we have to look. The department didn't look at the access to our own property, they didn't look at the 2477 – they knew about it – but they didn't look whether the 2477 road was there, they didn't look whether the Two Percent Road connected with the East Fork Road. And nobody has mentioned the fact that for eight months out of the year you can come over Rye Creek. So the appraisal, when you said Mr. Miller is the only one who has the right, the good access, the department has to demonstrate this and they haven't. They haven't tried. But whether they have or not, \$4,300, I think the offer was \$2,700, that's just too far apart.

Mr. McGrath said perhaps I can respond to the Senator. I think you are mistaken. Last month we had a document presented by the department that they did look, they got the survey for the old stagecoach road. According to the survey it moves up to the Miller Ranch, it does not go through the Miller Ranch. That was based on survey documents from 1893 the department got from the Ravalli County Courthouse. That was put into the record last month.

Senator Shockley said to address the Attorney General's argument, that's not the historic recollection and we, we being the Ravalli County Fish and Wildlife, we are looking into that ourselves. But I never heard of a stagecoach road that went to a ranch and dead ended. You have to get all over the county.

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Mr. McGrath said I am just telling you what the survey..having litigated these issues as a county attorney for some time the survey plays a very important role in terms of determining what was a public road and what wasn't.

Senator Shockley said that was in 1893? Sula Basin really wasn't settled until around 1900. That's the last part of the valley to be settled. Fort Owens was 1847 but the forest service wasn't organized until post-1907 to set up a ranger station at Sula but that was the last part of the valley to be settled because it was very high. But an 1893 map would not show what the road was like in 1917 when my grandfather was there.

Mr. McGrath said my final point Senator would be that twice now you've said the department didn't look, the department didn't look into this, the department didn't do their job and I just want you to stand corrected that in fact they have looked into this. They did do their job.

Senator Shockley said we can only voice our opinion on this.

Governor Schweitzer said Mr. Bugbee I've heard from the Attorney General and from the Secretary of State. The Secretary of State's concern was the possibility of confusion about whether this was going to be the final day and there may be additional public input. The Attorney General has suggested while the Wetzsteon property is not necessarily completely linked to this transaction in his mind, and I am going to agree with him, it is important that the Wetzsteon property kind of puts a little salve on this wound for me as well. If we were to delay this for one more month would Mr. Miller's position be the offer we've laid on the table would be on the table 30 days from now or is this last best final offer? The sweetening of the pot with \$320,000, the access that has been associated with this, would this trade be available 30 days from now whenever our next Land Board meeting is? After we've had the opportunity to close whatever gaps we can on the Wetzsteon property and hear from the folks of the community so they all have been heard? Would this still be out there 30 days from now?

Mr. Bugbee said I think the best way to answer that is it would leave Mr. Miller in a situation of freezing his position while things are in dynamic flux. We've seen all kinds of things happen in the last month. Folks that we thought had made a decision to support turned out not to, different ideas about what was enough, confusion about the existing proposal seems to continue. So I simply don't think it is fair to ask him to freeze his position when many things could change between now and next month. I think what I could say is making it contingent upon the Fish, Wildlife and Parks Commission meeting tomorrow, fine. But a month? I think we'd have to take the position of withdrawing the offer – the additional mitigation provisions pending what happens during this next month. I don't want to present a "we're going to take our marbles and go home, we're upset", it is just simply prudent. So much appears to be in flux here that I don't think it is fair to ask him to hold to his position when it doesn't appear that others are willing to do so.

Governor Schweitzer said thank you I appreciate that. And I also appreciate the comment about not taking your marbles and going home. But I think that we recognize land deals are complicated enough when they are just between a couple of parties but when it is the State of Montana involved and we have notice requirements and we have to recognize the community input, they are complicated. But I will say on the Wetzsteon deal which is important to me, seven out of eight land deals I have been involved with in Montana blew up before we even got the deal done. For us to say today we think we have the Wetzsteon deal put together, we think the Rocky Mountain Elk Foundation has got something put together, FWP is going to look at this tomorrow and we think that it is not there yet. It is unfortunate, the timing is not good. I know this came at a late date but it came as a result of discussion from the

leadership that came out of the Bitterroot and said we'd like to see no net loss of public land, didn't like the idea of swapping us against them, and Mr. McGrath and others have been actively trying to put other pieces together. The Wetzsteon property, when we discussed it last month it was already what we understood to be a signed deal. So we asked to reopen that, to contact the realtor, is it possible we could poke our nose in here and obviously their other deal blew up because it became available. I guess my concern is if the position today, your position, would be to ask this Board up or down. It would concern me right now whether you would have the support given the likely opportunity of having Wetzsteon a done deal by the time we finish this meeting. I can't speak for the Board. It was very good to hear from you "we're not taking our marbles and going home" but we're not going to leave this on the table and I think I understand what that position means.

Mr. Johnson offered a substitute motion. He moved to postpone action on 1205-6, the DNRC/Miller Land Exchange until next month. Seconded by Governor Schweitzer.

Mr. McGrath said to clarify and make sure we understand where we will be a month from now, in terms of the Wetzsteon acquisition assuming things go well what we'll have is preliminary approval from the Fish and Game Commission to acquire. We'll have, presumably, a signed option agreement with the Rocky Mountain Elk Foundation. But that's probably all. We won't have a completed transaction, that transaction will take several months even though the appraisal has been started. To have a final deal would not be realistic at all. But we will certainly have significantly more guarantees a month from now than we do today but we won't have the final deal.

A vote was taken on the substitute motion. Motion carried unanimously.

106-1      SET MINIMUM BID AMOUNT FOR SANDERS COUNTY LAND BANKING  
PARCELS SALE #s 207, 277, 278

Ms. Sexton said this is to set a minimum bid for the Sanders County parcels. There are three parcels within Sanders County totaling 160 acres. Our appraised value is \$1,200 per acre, and the recommended minimum bid is \$1,200 per acre. There is no difference in this due to isolated or not as far as comparisons go. You do have a subject location map, it is somewhat close to Dixon. The status of the access at this point is unclear. This was passed in the summer for preliminary approval and we are asking now to set the minimum bid at \$1,200 per acre.

Governor Schweitzer said is there somebody who can tell me on the ground what this property looks like? Is there a lot of knapweed on it? This is very close to knapweed central, what does this piece of ground look like?

Jeanne Holmgren, DNRC Real Estate Management Bureau Supervisor, said I don't know anybody here that has actually been specifically on the ground. And just another comment is that we are in the process of looking into the county road, we believe there is a county road that goes to the property. There are some folks who believe it was abandoned and we are looking into that issue. That is what we're trying to resolve right now.

Ms. Sexton said this was lessee-nominated by Robert and Ross Middlemas.

Governor Schweitzer said wouldn't the value of that property and the minimum bid we would choose hinge a great deal on whether there is county road access or not?

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Ms. Sexton said the information I have according to our appraiser is there would be no difference whether it is isolated or not in the comparisons.

Ms. Holmgren said in the land banking rules, we are to look at the value with or without access. If in fact it does not have access. In this particular situation our appraiser's research of the market did not indicate that there was a diminution in value. Whether it has or has not access, the market is what we're saying is not recognizing a difference.

Motion was made by Mr. McGrath to approve setting a minimum bid for parcels #207, 277, 278. He said it seems to me the issue about access will be one that we will want to make sure we have clarified and the appraisal clarified before we give approval to this. Seconded by Mr. Johnson.

Joe Lamson, Office of Public Instruction, said Superintendent McCulloch apologizes for not being here today she asked Director Sexton and Patty Greene to record her as affirmative on the remaining items unless something comes up and I give her a call. If you could just record her as an affirmative, she'd appreciate that.

Motion carried unanimously.

106-2      SET MINIMUM BID AMOUNT FOR LAND BANKING PARCEL  
SPRING PRAIRIE SECTION 36, T29N, R22W

Ms. Sexton said this is to set the minimum bid for the land banking parcel in Kalispell. This is part of the Spring Prairie Section 36 and is for 85.2 acres. It is the SW corner of that section that also has the new Flathead County High School, Kidsports, the Costco-Lowes development, and the fire station the Board already approved. There is in the upper right hand corner, the NW ¼ of the SW ¼, an area we are setting aside for Kidsports, we are continuing negotiations with Kidsports regarding an easement. They are still leasing the property including the frontage on the highway that we may, if we are successful in consummating the easement, exchange for this small piece. So we are holding out this piece in the event there is successful negotiations for an easement with Kidsports. We have discussed this with the representative from Kidsports and they are in agreement. This will move this parcel forward for sale. The appraised value is \$35,700 per acre, we are asking the Board to set the minimum bid somewhat higher because of a 16% appreciation. By the time this comes to public sale, there will have been an appreciation, this is the standard appreciation value in the Flathead Valley. We would like to set a minimum of \$41,457 per acre. We will be participating in the development of the residential use. It will have city services to it and is a project we have been involved in with the city for some time.

Motion was made by Mr. McGrath to approve the minimum bid for Spring Prairie Section 36. Seconded by Mr. Johnson.

Mr. McGrath said I know this is the area where they want to put the bypass in. Those easements have been acquired already have they not?

Ms. Sexton said we are negotiating those at this point in time with DOT.

Mr. McGrath said I have been trying to understand what you said. We are not going to sell this until the easements are resolved one way or another. Is that right?

Ms. Sexton said the easement for DOT will probably be completed before we sell them or be contingent upon it.

Ms. Holmgren said yes, we have been in discussions with the DOT for this route of the bypass. We do know, even though we haven't issued the easement, we have been working with their engineering and we know the width of the easement going through this section. We are working on an MOU prior to issuing an easement with the DOT regarding this particular property. But we are of the assurance as to where and the width of their easement will likely go through this property resulting in 85.2 acres. I would also like to clarify that we are in the process of finalizing the survey and, having removed a portion of the property to allow for Kidsports and for the negotiations of that to continue. Currently, we believe the parcel is 85.2. However, until the survey is completed, the acreage figure may change. Therefore, we are requesting that you approve the minimum bid at \$41,000 per acre.

Mr. Johnson said I am getting mixed information as to whether or not the state will remain involved in the residential development phase of this project. Are we or are we not going to be long term partners?

Ms. Holmgren said I'd like to provide an overview as to what that means. We had originally looked at ways we could participate in the actual sale of these lots, 10%, 5%, whatever the percentage of that would be. In researching that and looking at what other western states do and our laws, we were unable to craft a way in which we could participate in the sale of each and every lot. So what we have done is crafted a process. Here is the process. We are intensively marketing this property, originally to 200 developers bringing that down to around 80 developers. We have a seven-member project team that is working on this sale project. We will market it to these developers, we will have the auction on June 15<sup>th</sup>. We have the appraised value of \$35,700 per acre, we then appreciated that to June 15<sup>th</sup> to the rate of appreciation that's were you get the \$41,000 per acre. Subsequently at that time, we are looking at offering an option agreement which allows the developer to go through the subdivision process which takes the risk out. But do how we participate in that? We sat down with members of the community, the city, the Sonoran Institute, Smart Growth, and the development community and we've developed design standards and design principles. These standards provide direction on how streets fit in with the neighborhood and adjacent property. The architecture has to be the same throughout the subdivision. Those are some of the standards so you have a sense of place, the landscaping has to be around the perimeter, and so on. That is to assure quality development and one that we are proud of. That is how we are going to participate: increasing the rate to the \$41,000 per acre and working with the developer and being part of that option agreement until such time that they can exercise their option.

Mr. Johnson said I understand the revenues to the trust from this transaction will be those revenues that are generated from a sale and then we are done?

Ms. Holmgren said that's correct. Like I said, we are doing an intensive marketing effort and we believe the market will bear what the market will bear in bringing folks to the table so the auction will bring us the value that is due to the trust.

A vote was taken on the motion. Motion carried unanimously.

106-3      SET MINIMUM BID AMOUNT FOR POWELL COUNTY LAND BANKING  
PARCEL SALE # 77

Ms. Sexton said this is also setting the minimum bid for a land banking parcel. This is in Powell County for 640 acres and is lessee-nominated. The recommended minimum bid would be for \$384,000 total.

There is no discount for access and at this point this is quite far away from a road. I believe the access point is from the west on this parcel. That was the reason there is no discount for access because it is very distant.

Motion was made by Mr. Johnson to approve the minimum bid request. Seconded by Mr. McGrath. Motion carried unanimously.

106-4                    KING BEAR TIMBER SALE

Ms. Sexton said this is out of the Stillwater Unit and is a fairly small timber sale, 42 acres. It is part of a larger sale, the Taylor South EIS that was done. The estimated sale volume is 578,000 board feet and the value is \$107,000. There are twenty-one acres of classified old growth on this property and because of the condition of old growth insect and disease problems it is included. Due to a high percentage of trees with insect and disease attacks in this twenty-acre patch it would not qualify as old growth after harvest is completed. All the other scoping has been done and I recommend approval of the sale.

Mr. McGrath said I want to make sure on the old growth, my understanding is because of the infestation we really have no choice if we are going to save the rest of the timber in that area we really need to conduct this harvest. Is that a correct understanding?

David Groeschl, DNRC Forest Management Bureau Chief, said the twenty-one acres that's being treated is part of a much larger stand of 308 acres and it is a portion of that larger stand we are treating because of mistletoe infestation and the flathead fir borer so we have a high degree of mortality taking place in that small section of the old growth stand. It is meant to treat that, it will drop out of old growth to twenty-one acres but it will also help impede the spread of insect and disease into the existing stand around it.

Motion was made by Mr. McGrath to approve the King Bear Timber Sale. Seconded by Mr. Johnson. Motion carried unanimously.

106-5                    HARGROVE V. TURNER ENTERPRISES, INC. (Declaratory Judgment)

Ms. Sexton said this is a declaratory judgment that was requested in the case of Hargrove v. Turner Enterprises, Inc. They brought suit for declaratory judgment to determine the legal character of the segments of the Gallatin Gateway foothills road and this is an informational piece primarily that with declaratory judgment access is retained. The state has previously granted easements to various landowners to utilize this road to traverse the state tract to reach their private lands. The existing road exiting the eastern boundary of the state land does not provide any access to other public lands. So this declaratory judgment does not impact the access to public lands. It was a court-ordered mediation and the parties reached an agreement in the form of a Stipulation for Entry of Judgment which preserves public access to state lands and the existing rights of the private landowners. From the department's perspective this agreement preserves the current legal status of the Gallatin Gateway Foothills Road. We request the Board's permission to execute the enclosed Settlement Agreement in order to resolve the litigation to obtain a judicial declaration that the public has the right of access to this tract of state land. In this agreement, that access is retained. The Board has to agree to the stipulation that the public access is maintained.

Motion was made by Mr. McGrath to grant approval to execute the Settlement Agreement. Seconded by Mr. Johnson.



Mr. Johnson said what would happen if we said no?

Tommy Butler, DNRC Legal Counsel, said we would have to litigate the case.

A vote was taken on the motion. Motion carried unanimously.

106-6            ANDERSON RANCH COMPANY CORRECTIVE DEED

Ms. Sexton said this is a corrective deed for the Anderson Ranch Company. In 1944 the Commission conveyed to D.D. Jemison lots 7 and 8 and these lots were misnamed and they need to be re-numbered into lots 5 and 6. This is causing a mis-description in the higher-numbered riparian lots within Section 16. This corrective deed will remove the current cloud that exists on the title for the Anderson Ranch Company lands. I recommend the Board's approval for the re-numbering of the lots.

Mr. Johnson moved to approve the corrective deed. Seconded by Mr. McGrath. Motion carried unanimously.

106-7            RIGHTS-OF-WAY APPLICATIONS

We have nine requests for right-of-way this month. They are #13631 from NorthWestern Energy for overhead kV electric transmission line; #13632 from Anderson Diamond Ranch for a private access road to a single family residence; #13633 from Keith and Colleen Raty for a private access road to a single family residence; #13634 through 13637 from Dry Prairie Rural Water Authority for underground water pipelines; #13638 from Noble Energy for a buried plastic natural gas gathering pipeline; and #13639 from Bitter Creek Pipeline for a buried natural gas pipeline. Ms Sexton requested approval.

Motion was made by Mr. McGrath to approve the rights-of-way requests. Seconded by Mr. Johnson. Motion carried unanimously.

106-8            PRELIMINARY APPROVAL TO SELL DOC LAND IN MILES CITY

Ms. Sexton said this was added late to the agenda because of the need to expedite this process. We entered this item on behalf of the Pine Hills Youth Correctional Facility. This is a proposal to sell at public auction 15 to 20 acres owned by the Department of Corrections, non-trust land, to an oil and gas service company, Sanjel. It has been operating in Miles City since 2001 and has found the area favorable to their long term expansion and they wish to pursue land in this area to build a larger facility. This was brought to the department's attention from local officials in the Miles City area. Sanjel currently employs 82 people with a payroll of approximately \$6 million. This would add another 25-30 individuals to the payroll. Their planned expansion would include construction of a training center, administrative offices, and equipment refurbishment facilities. If they cannot find another favorable site they likely will be looking at South Dakota and Wyoming. They have been working closely with local governments and they wish to pursue the Montana site, it is the preferred alternative. They have requested the local governments provide them with a list of sites that meet their development criteria for power, water, disposal and access needs. This site came up as a primary parcel that would attract their interest. Upon preliminary approval, we will publish public notice in the area describing the project and requesting public input for the sale of this parcel at public auction, the MEPA process. We are also completing an appraisal to be finished on January 27<sup>th</sup> and a survey will be conducted so we can start advertising for the public auction at the same time. We have to have the appraised price on the advertisement for public auction. At the February Board meeting we will set the minimum bid and likely ask also for approval of

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the project contingent upon meeting the minimum bid. The Sanjel Company would like to have this process completed by early March. The Department of Corrections is on board with this and my staff has been working with the local DNRC folks and elected officials to try and get this process streamlined so we can meet the company's deadlines. Ms. Section recommended preliminary approval.

Governor Schweitzer asked how many people is Sanjel proposing to employ in the Miles City area if they locate there?

Ms. Sexton said they want to increase their employment by 25-30 individuals. They already have about 82 people working from the Miles City area.

Mr. Johnson asked how is the revenue generated by this property handled? Are they a net increase to what's available?

Ms. Sexton said this is Department of Corrections land and my understanding is it goes into the general fund.

Motion was made by Mr. Johnson to grant preliminary approval. Seconded by Mr. McGrath. Motion carried unanimously.

Motion was made by Mr. McGrath to adjourn the meeting. Seconded by Mr. Johnson.